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**SEP 17 2004**

**OFFICE OF PETITIONS**

In re Application of	:	
Hunleth et al.	:	DECISION ON PETITION
Application No. 10/768,234	:	
Filed: January 30, 2004	:	
Attorney Docket No. 0320-002	:	

This is a decision on the petition under 37 CFR 1.53(e) filed July 28, 2004, requesting that the above-identified application be accorded a filing date of January 30, 2004.

The application was deposited on January 30, 2004, without claims. On June 15, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring a complete specification (including at least one claim) as prescribed by 35 U.S.C. 112, and stating that the filing date would be the date of receipt of the omitted item. Additionally, the Notice indicated that an oath/declaration and abstract were missing.

On July 28, 2004, applicant submitted the present petition, an executed declaration, a certified copy of U.S. Provisional Patent Application No. 60/495,998, and the requisite fees. Applicant contends that the application as filed specifically incorporated by reference Application No. 60/495,998, filed August 18, 2003.

A search of the official file reveals that on January 30, 2004, a specification was filed, which states, in relevant part: "This application is also related to, and claims priority from, U.S. Provisional Patent Application Serial No. 60/495,998, filed August 18, 2003, entitled 'A Control Framework with a Zoomable Graphical User Interface for Organizing, Selecting and Launching Media Items', the disclosure of which is incorporated by reference."

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a

continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicant's representation that the claims supplied with the present petition constitute a copy of the prior application papers, and the incorporation by reference statement appearing in the specification deposited on January 30, 2004, it is appropriate, on petition, to accord the application the requested filing date of January 30, 2004, with 22 pages of claims.

Accordingly, the petition is **granted**.

The \$130.00 petition fee set forth in 37 CFR 1.17(h) will not be refunded because the petition was required to accord the application the requested filing date.

**Applicant must submit an abstract as required by the Notice within TWO MONTHS of the date of this decision.**

The Office of Initial Patent Examination is directed to process the application with a filing date of **January 30, 2004**, using the application papers filed on that date and the copy of 22 pages of claims submitted on July 28, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

*Christina Tartera Donnell*

Christina Tartera Donnell  
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